

Docket No.: 944-001.064
Serial No.: 10/099,902

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1st Named Inventor: Matti Salmi
App. Serial No.: 10/099,902 Examiner: Asghar H. Bilgrami
Filing Date: March 13, 2002 Group Art Unit: 2443
Title of Invention: Realization of Presence Management

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir,

In response to the final Office Action of November 28, 2008, a Notice of Appeal is filed herewith. Applicant respectfully requests a pre-appeal brief conference for reviewing the pending application.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Marilyn O'Connell
Marilyn O'Connell

Dated: February 27, 2009

REMARKS

Status of the Application

This application includes claims 1-5, 7-17, 19, 21-23, 25-43, 45-61, 63 and 64. In the final Office Action of November 28, 2008, all of the claims are rejected. With this paper, none of the claims are amended, none are canceled, and none are added. A complete list of the pending claims can be found in a previous response filed on August 21, 2008.

Claim Rejections under 35 U.S.C. §103 - First Set

Claims 1-5, 7-17, 19, 21-23, 25-43, 45-61, 63 and 64 are rejected under 35 U.S.C. §103(a) as being unpatentable over Desai et al (U.S. Patent No. 6,820,204, Desai hereinafter) in view of Eftis et al (U.S. Patent 7,171,473, Eftis hereinafter) and Aravamudan et al (U.S. Patent 6,301,609 B1, Aravamudan hereinafter).

Among the rejected claims, claims 22, 42 and 63 are independent.

As per claims 22, 42 and 63, the Office acknowledged that Desai did not explicitly disclose “wherein a primitive comprises one or more information elements including a presence information element, said presence information element comprises one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided.” However, the Office cites Eftis, col. 14, lines 20-57, for teaching such a concept (page 3 of the Detailed Action).

Applicant respectfully submits that, what Eftis teaches, at the cited location (col. 14, lines 20-57), relates to updating a communication web page when a user logs on, logs off, joins a group or leaves a group, and sending update notification to the members who are currently online. The updates are processed and displayed immediately, giving users a real-time indication of the online presence of the members. Although the online presence status (whether a user is logged on or logged off) may be regarded as an information item of the user at the time the information is provided, Eftis certainly does not disclose providing a “presence status of a user or a client of the user.” The presence status of a user or a client of the user, as defined in the present application, includes not only the online/offline status of the user but

also various additional information items such as the user's location, user availability (online does not necessarily mean available), client capability (e.g. what kind of client device the user is using, Eftis does not teach providing information regarding the device), etc. Therefore, a combination of Desai and Eftis does not have a sufficient disclosure that would lead a person skilled in the art to the knowledge of providing one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided.

Further, the Office acknowledged that neither Desai nor Eftis explicitly disclose "said presence attributes are classifiable in any one or more of the following: client reachability, user availability, user personal status, user or client location, and client capabilities, and wherein said values of the presence attributes have associated space and time information useable by the receiving entity to modify said presence values or related presence values in processing said presence primitive." However, the Office cites Aravamudan (col. 5, lines 15-31, col. 6, lines 64-67 and col. 7, lines 1-12) for teaching such a concept (page 4 of the Detailed Action).

Aravamudan teaches a system that has an industry standard IM server using standard IM server software. The IM server is combined with a communication service platform (CSP). The CSP is registered with the IM server as a "buddy" to the subscribing client. Aravamudan teaches that the location of a subscribing client is provided by the CSP. The CSP initiates communications to the subscribing client via instant messages, and the CSP solicits a response from the subscribing client.

Applicant respectfully submits that, the concept of the "client" in Aravamudan is not the same as, and should not be confused with, the concept of "client" in the present application. In the present application, a client is a separate entity from a user. A user is a person subscribing a service and a client is an implementation of the service in a device that allows one or more users to access the service. The client may be hardware, software, firmware, or any combination thereof. The client concept is device-independent but for purposes of actual use is installed in a physical device (see page 20, lines 2-6 of the originally filed application). According to the present invention, both the user and the client have their

separate unique identities so that more than one user can use the same client, or a user can log onto more than one client, without the confusion of identities.

The term “client” is used in Aravamundan for referring to a user of an electronic device. In contrast, the device itself is called a client premises equipment (CPE) (col. 3, lines 28-37). Aravamundan teaches that: “the location of a subscribing client (that is, a client subscribing to both the IM service and the multiple network access provided by the service provider 120) is located by the CSP 160, the CSP initiates communications to the subscribing client via instant messages, and the CSP solicits a response from the subscribing client.” (col. 5, lines 23-31, cited by the Office) emphasis supplied. By reading the above passage, a person skilled in the art would understand that the word “client” means a user that is provided with a service. The user is able to access the service via one or more electronic devices (CPE). The user may be a recipient of a service and may own or operate a CPE device such as a personal computer, a wire telephone or screen phone, a wireless cellular phone or screen phone, a wireless or wired personal digital assistant (PDA) or other data or communication devices. This passage clearly shows that the term “client” in Aravamundan is equivalent to the term “user” in the present application, and there is no clear distinction between a user and a device used by the user according to Aravamundan.

However, in col. 6, line 64 to col. 7, line 20, also cited by the Office, Aravamundan discloses that a user logs onto the network and the client software provides a message indicating user’s online status and current user address. Aravamundan explains that the address indicates which CPE device the user is utilizing to access the network. This passage confuses user and client, because in one instance it says user’s online status and user’s address are provided (col. 7, lines 5-9), and in another instance it says the user’s online status and client device’s address are provided (col. 7, lines 11-20). It can only be gathered from the cited passage that Aravamundan teaches providing a user’s online status and a network address for another user to reach said user. Aravamundan clearly does not teach providing other information such as client (device) reachability, user availability, user personal status, user or client (device) location, and client (device) capabilities.

Therefore, for at least the above reasons, the rejection of claims based a combination of Desai, Eftis and Aravamundan is clearly erroneous. Applicant respectfully requests the rejection on claims 22, 42 and 63, and all dependent claims thereof, be reconsidered, withdrawn and allowed.

Claim Rejections under 35 USC §103 - Second Set

Claims 1-5, 7-17, 19, 21-23, 25-43, 45-61, 63 and 64 are rejected under 35 USC §103(a) as being unpatentable over Desai in view of Tornabene et al (U.S. Publication No. 2002/0023132, Tornabene hereinafter).

As per independent claims 22, 42 and 63, the Office acknowledged that Desai did not explicitly disclose “wherein a primitive comprises one or more information elements including a presence information element, said presence information element comprises one or more presence attributes, the values of the attributes indicating presence status of a user or a client of the user at the time the presence information is provided, and said presence attributes are classifiable in any one or more of the following: client reachability, user availability, user personal status, user or client location, and client capabilities, and wherein said values of the presence attributes have associated space and time information useable by the receiving entity to modify said presence values or related presence values in processing said presence primitive.” However, the Office asserts that Tornabene teaches the above features. Since Tornabene was filed after the effective filing date of the present application, Tornabene Provisional (U.S. Provisional Application 60/189,973, filed March 17, 2000) was referred to (pages 15 to 16 of the Detailed Action).

Applicant respectfully submits that, similar to Eftis, what Tornabene teaches at the cited locations (page 11, lines 15-23 and page 12, lines 1-3 of Tornabene Provisional) relates to a user accessing an IM server in order to view whether particular subscribers (“buddies”) are online. The IM server, in turn, provides the user a real-time indication of the online presence of the other users. Although the online status (whether a user is logged on or logged off) may be regarded as an information item of the user, it does not carry additional information such as an online user’s location, availability, mood, client capability, etc.

Besides, Tornabene Provisional does not teach that the online/offline status may be presented with the additional information and modified according to the associated space and time information.

The Office further cites paragraphs [0006], [0063] and [0084] of Tornabene for teaching “said presence attributes are classifiable in any one or more of the following: client reachability, user availability, user personal status, user or client location [0063], and client capabilities [0084], and wherein said values of the presence attributes have associated space and time information useable by the receiving entity to modify said presence values or related presence values in processing said presence primitive [0006].”

In fact, paragraph [0063] of Tornabene can only be partially traced back to page 13, lines 14-21 of Tornabene Provisional. Paragraph [0084] of Tornabene is absent in Tornabene provisional. Therefore, paragraph [0084] cannot be used as prior art against the present invention. Besides, paragraph [0084] of Tornabene does not teach providing an information element comprising presence attributes indicating client capabilities.

The presence information according to the present invention covers much more than merely an indication of whether a particular user is online or offline. The present invention provides a presence primitive. The presence primitive includes various presence attributes of a user or a client of the user. The presence attributes are classifiable in any one or more of the categories: client reachability, user availability, user personal status, user or client location, and client capabilities. The values of the presence attributes have associated space and time information useable by a receiving entity to modify the presence values or related presence values of the user in processing the presence primitive.

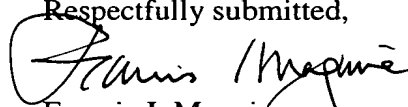
The Desai patent and the Tornabene provisional combined do not teach that the presence information includes various presence attributes that are classifiable in any one or more of the categories: client reachability, user availability, user personal status, user or client location, and client capabilities, and the values of the presence attributes have associated space and time information useable by a receiving entity to modify the presence values or related presence values of the user in processing the presence primitive.

Therefore, for at least the above reasons, the rejection of claims based a combination of Desai and Tornabene Provisional is clearly erroneous. Applicant respectfully requests the rejection on claims 22, 42 and 63, and all dependent claims thereof, be reconsidered, withdrawn and allowed.

Conclusion

For all the foregoing reasons, it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant urges the Examiner to call the undersigned attorney to discuss the present response if there are any questions.

Respectfully submitted,


Francis J. Maguire
Attorney for the Applicant
Registration No. 31,391

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, Connecticut 06468
Tel: (203) 261-1234